

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

UNITED STATES OF AMERICA,

Respondent,

v.

CRIMINAL ACTION NO. 3:94-00083-01
(CIVIL ACTION NO. 3:06-0047)

RYAN NEWSOME,

Movant.

MEMORANDUM OPINION AND ORDER

Currently pending before the Court is Movant Ryan Newsome's Objections to the Findings and Recommendation made by Magistrate Judge Maurice Taylor. For the reasons discussed below, the Court **DENIES** Petitioner's Objections, **ADOPTS** the proposed Findings and Recommendation of the Magistrate Judge, and **DISMISSES WITH PREJUDICE** Movant's application for habeas corpus relief.

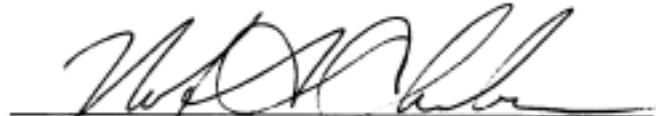
In 1995, Movant was convicted by jury of drug crimes and sentenced to 292 months of imprisonment and five years of supervised release. Movant appealed his conviction, but his conviction was affirmed by the Fourth Circuit Court of Appeals in 1996. *United States v. Newsome*, 85 F.3d 618 (4th Cir. 1996). Thereafter, Movant filed for relief pursuant to 28 U.S.C. § 2255. Movant's request was denied by Order entered on July 21, 1997, and his appeal was dismissed by the Fourth Circuit in 1998. *United States v. Newsome*, 149 F.3d 1171 (4th Cir. 1998). In January of 2006, Movant filed a second § 2255 motion, requesting relief under the United States Supreme Court's decision in *United States v. Booker*, 543 U.S. 220 (2005). However, as indicated by the

Magistrate Judge, Movant failed to have his second motion under § 2255 “certified as provided in section [28 U.S.C. §] 2244 by a panel of the appropriate court of appeals[.]” 28 U.S.C. § 2255, in part. Therefore, this Court is without jurisdiction to consider the motion. *United States v. Winestock*, 340 F.3d 200, 205 (4th Cir. 2003). Although Movant makes a conclusory statement in his Objections that his current motion is not a second or successive motion, the Court finds that it clearly is. Therefore, the Court agrees with the Magistrate Judge and finds the Court has no jurisdiction to entertain the motion.

Accordingly, for the foregoing reasons, the Court **ADOPTS** the Findings and Recommendation of the Magistrate Judge, **DENIES** Movant’s Objections to the same, and **DISMISSES WITH PREJUDICE** Movant's request for habeas corpus relief pursuant to 28 U.S.C. § 2255.

The Court **DIRECTS** the Clerk to send a copy of this written Opinion and Order to counsel of record and any unrepresented parties.

ENTER: May 24, 2006



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE